

**UNITED STATES DISTRICT COURT
DISTRICT OF MINNESOTA**

United States of America,

Case No. 22-cr-188 (KMM/TNL)

Plaintiff,

v.

ORDER

Benjamin Reuben Krupp (1),
James Winfred Timmons (2), and
Thomas Virgil Trumble (3),

Defendants.

This matter comes before the Court on Defendant James Winfred Timmons's Motion for Extension of Time to File Pretrial Motions, ECF No. 38, and Motion to Exclude Time Under the Speedy Trial Act, ECF No. 40. Defendant Timmons has also filed a Statement of Facts in Support of Exclusion of Time Under the Speedy Trial Act. ECF No. 41. Defendant Timmons seeks an additional 60 days to file pretrial motions in this matter so that he can review discovery and consult with counsel. By e-mail correspondence, the Court inquired whether there were any objections to Defendant Timmons's request and none have been received.

Additionally, beginning on March 13, 2020, and continuing thereafter, the Chief District Judge for the United States District Court for the District of Minnesota, has issued a series of General Orders in connection with the COVID-19 pandemic, addressing, among other things, criminal proceedings and trials.¹ On September 14,

¹ All General Orders related to the COVID-19 pandemic may be found on the Court's website at

2022, Chief Judge Patrick J. Schiltz entered General Order No. 39, which allows limited in-person proceedings for defendants who decline to consent to conducting the proceeding using videoconferencing, or telephone conferencing if videoconferencing is not reasonably available. *See generally In re: Updated Guidance to Court Operations Under the Exigent Circumstances Created by COVID-19*, Gen. Order No. 39 (D. Minn. Sept. 14, 2022). General Order No. 39 states that because only limited in-person proceedings may be held each day, criminal proceedings may be continued until the date that the criminal proceeding takes place.

General Order No. 39 continues to encourage the use of videoconferencing in criminal proceedings and states that, with the defendant's consent, criminal proceedings will be conducted by videoconferencing, or telephone conferencing if videoconferencing is not reasonably available.² General Order No. 39 further provides that the presiding judge will enter orders in individual cases to extend deadlines and exclude time under the Speedy Trial Act to address delays attributable to COVID-19. **Accordingly, should a defendant file pretrial motions, counsel shall also file a letter indicating whether that defendant consents to a motions hearing by videoconference.** ECF No. 22.

Pursuant to 18 U.S.C. § 3161(h), this Court finds that the ends of justice served by granting a continuance outweigh the best interests of the public and Defendants in a speedy trial and such continuance is necessary to provide Defendants and their counsel

<https://www.mnd.uscourts.gov/coronavirus-covid-19-guidance>.

² *See also* General Order No. 38, which went into effect on September 17, 2022, vacated General Order No. 37, and extended the Court's authorization to conduct certain criminal proceedings via video or telephone conference pursuant to the CARES Act "[b]ecause the emergency created by the COVID-19 outbreak continues to materially affect the functioning of court operations in the District of Minnesota." *In re: Updated Guidance to Court Operations Under the Exigent Circumstances Created by COVID-19*, Gen. Order No. 38 (D. Minn. Sept. 14, 2022).

reasonable time necessary for effective preparation and to make efficient use of the parties' resources. Because "[e]xclusions of time attributable to one defendant apply to all codefendants," *United States v. Mallett*, 751 F.3d 907, 911 (8th Cir. 2014) (quotation omitted); *see also United States v. Arrellano-Garcia*, 471 F.3d 897, 900 (8th Cir. 2006), this period of time will be excludable as to all Defendants, including Benjamin Reuben Krupp and Thomas Virgil Trumble.

Based on all the files, records, and proceedings herein, **IT IS HEREBY ORDERED** that:

1. Defendant's Motion for Extension of Time to File Pretrial Motions, ECF No. 38, is **GRANTED**.

2. Defendant Timmons's Motion to Exclude Time Under the Speedy Trial Act, ECF No. 40, is **GRANTED**.

3. The period of time from **September 14 through December 12, 2022**, shall be excluded from Speedy Trial Act computations in this case. *See Mallett*, 751 F.3d at 911; *Arrellano-Garcia*, 471 F.3d at 900.

4. All motions in the above-entitled case shall be filed and served consistent with Federal Rules of Criminal Procedure 12(b) and 47 on or before **November 14, 2022**. D. Minn. LR 12.1(c)(1). Two courtesy copies of all motions and responses shall be delivered directly to the chambers of Magistrate Judge Leung.

5. **Should a defendant file pretrial motions, counsel shall also file a letter on or before November 14, 2022, indicating whether that defendant consents to a motions hearing by videoconference.** ECF No. 22.

6. Counsel shall electronically file a letter on or before **November 14, 2022**, if no motions will be filed and there is no need for hearing.

7. All responses to motions shall be filed by **November 28, 2022**. D. Minn. LR 12.1(c)(2).

8. Any Notice of Intent to Call Witnesses shall be filed by **November 28, 2022**. D. Minn. LR. 12.1(c)(3)(A).

9. Any Responsive Notice of Intent to Call Witnesses shall be filed by **December 2, 2022**. D. Minn. LR 12.1(c)(3)(B).

10. A motions hearing will be held pursuant to Federal Rules of Criminal Procedure 12(c) where:

- a. The government makes timely disclosures and a defendant pleads particularized matters for which an evidentiary hearing is necessary; or
- b. Oral argument is requested by either party in its motion, objection or response pleadings.

11. The motions hearing, if required, shall take place before the undersigned on **December 12, 2022, at 1:00 p.m.**, in Courtroom 9W, Diana E. Murphy U.S. Courthouse, 300 South Fourth Street, Minneapolis, Minnesota. D. Minn. LR 12.1(d).

[Continued on next page.]

12. **TRIAL:** The trial date, and other related dates, will be rescheduled following the ruling on pretrial motions. Counsel must contact the Courtroom Deputy for District Judge Katherine M. Menendez to confirm the new trial date.

Dated: September 20, 2022

s/ Tony N. Leung
TONY N. LEUNG
United States Magistrate Judge
District of Minnesota

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